

EUROPEAN PARLIAMENT

Working Documents

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MOTION FOR A RESOLUTION

tabled by Mr von WOGAU, Mr PÖTTERING,
Mr FRANZ, Mr PFLIMLIN, Mr MALANGRE,
Mr NOTENBOOM, Mr van AERSEN, Mr PFENNIG,
Mr BOCKLET, Mr Konrad SCHÖN, Mr TRAVAGLINI,
Mrs RABBETHGE, Mr DIANA, Mr ADONNINO, Mr HERMAN,
Mr SIMONNET and Mr GONELLA

pursuant to Rule 47 of the Rules of Procedure
on the reversion of liability from importer to
producer in intra-Community trade

The European Parliament,

- considering that in Member States the responsibility for ensuring that imported goods comply with national provisions relating to marketability generally lies with the trader, i.e. the importer, even in intra-Community trade, whereas in the case of similar domestic products this responsibility lies primarily with the producer,
- in view of the fact that such a reversion of manufacturer's liability tends to make traders reluctant to import and turn instead to similar domestic products,
- having regard to the substantial costs involved in subjecting goods imported from other Member States to national marketability controls,
- having regard to the prohibition of quantitative restrictions on trade between Member States and all measures having equivalent effect (Article 30 EEC Treaty) and of arbitrary discrimination on trade between Member States (Article 36 EEC Treaty) and the aim of instituting a system ensuring that competition in the Common Market is not distorted (Article 3(f) EEC Treaty),
- having regard to certain harmonization directives such as the Council Directive of 20 January 1976 on the approximation of the laws of the Member States relating to the making-up by weight or by volume of certain prepackaged products (76/211/EEC)¹ or the Council Directive of 19 December 1974 on the approximation of the laws of the Member States relating to the making-up by volume of certain prepackaged liquids (75/106/EEC)² which provide that in the case of special quality or standard marks for intra-Community trade, the importer shall under no circumstances be held responsible for ensuring that the provisions of the directive are complied with and that throughout the Community the producer alone shall be held liable,
- in view of the fact that the proposal from the Commission relating to civil liability for defective goods in EEC countries³ also recommends that liability for defective goods should lie exclusively with the producer, regardless of the country in which the goods are found to be defective.

1. Urges the Commission to ensure firstly that any future harmonization

¹ OJ No. L 46, 21.2.76, p.1 and the Commission's Directive of 28.9.78 (78/891/EEC) adapting the annexes to Directive No. 76/211/EEC.

² OJ No. L 42, 15.2.75, p.1 and the Commission's Directive of 28.9.78 adapting the annexes to Directive No. 75/106/EEC.

³ Proposal for a Council Directive relating to the approximation of laws, regulations and administrative provisions of the Member States concerning liability for defective products of 9.9.1976 together with the amendment by the Commission of 1.10.1979, OJ No. C 241 of 14.10.76, p.9; OJ No C 271 of 26.10.1979, p.3.

measures as regards the marketability of a product in the Community include a uniform Community marketability standard for this product enabling it to be sold throughout the Community, and secondly that liability in this respect lies solely with the producer regardless of where the product is offered for sale;

2. Urges the Commission further to review all existing harmonization directives as soon as possible to ascertain whether they fulfil the above conditions and if necessary to propose amendments;
3. Appeals to the Council and to the Member States to ratify without delay proposed directives from the Commission along the lines indicated in paragraphs 1 and 2 of this motion for a resolution;
4. Instructs its President to forward this resolution to the Council, the Commission and to the Court of Justice as well as to the parliaments and Ministers of Justice of Member States.